

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
EDWARD & LISA WOLFE ZONE CHANGE REQUEST
ZONING MAP AMENDMENT REPORT (#FZC-15-02)
JUNE 11, 2015

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by Edward and Lisa Wolfe for a zoning map amendment in the Highway 93 North Zoning District. The proposed amendment would change the zoning of the subject property from “AG-40 Agricultural” to “SAG-5 Suburban Agricultural.”

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on July 08, 2015 in the 2nd Floor Conference Room of the Earl Bennett Building located at 1035 First Ave West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning map amendment. Documents pertaining to the zoning map amendment are available for public inspection at the Flathead County Planning and Zoning Office located in the Earl Bennett Building at 1035 First Avenue West, in Kalispell. Prior to the Commissioner’s public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Flathead County Clerk and Records Office at 800 South Main Street in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Planning Board

This space will contain an update regarding the July 08, 2015 Flathead County Planning Board review of the proposal.

B. Commission

This space will contain an update regarding the Flathead County Commissioners review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Owner/Applicants

Edward & Lisa Wolfe
P.O. Box 396
Bigfork, MT 59911

ii. Technical Assistance

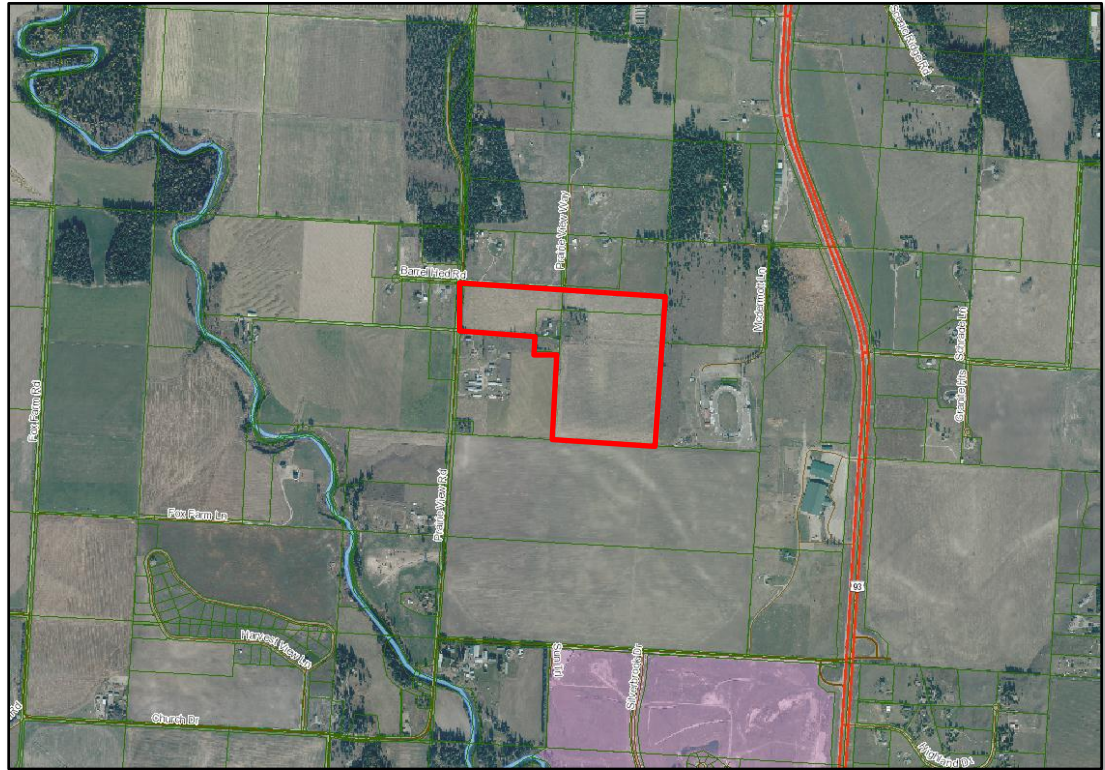
Erica Wirtala w/
Sands Surveying, Inc.
2 Village Loop
Kalispell, MT 59901

B. Subject Property Location and Legal Description

The subject property upon which a zoning map amendment has been requested consists of five assessor’s tracts (Tracts 6, 6B, 4A, 4AC & 4AE) totaling 78 acres. Tracts 6 and 4A must convey together per COS #8215, and Tracts 6B, 4AC and 4AE must convey together per COS #7603. The subject property therefore consists of two separately conveyable parcels, hereafter referred to together as “subject property.” The subject property is located at 739 Prairie View Road and is generally located 8/10th of a mile north of the intersection of Church Drive and Prairie View Road. The

subject property is shown in Figure 1 below. The subject property can be legally described as Assessor's Tracts 6, 6B, 4A, 4AC & 4AE in Section 12, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property (outlined in red).



C. Proposed Zoning Map Amendment

The subject property is located within the Highway 93 North Zoning District and is currently zoned “AG-40 Agricultural” (see Figure 2 below). The AG-40 designation is defined in Section 3.05 of the Flathead County Zoning Regulations (FCZR) as, “*A district to protect and preserve agricultural land for the performance of a wide range of agricultural functions. It is intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development.*”

As depicted in Figure 3 below, the applicant has requested a zoning map amendment to “SAG-5 Suburban Agricultural” zoning. The SAG-5 designation is defined in Section 3.08 FCZR as, ‘*A district to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*’

Figure 2: Current AG-40 zoning applicable to subject property (outlined in red)

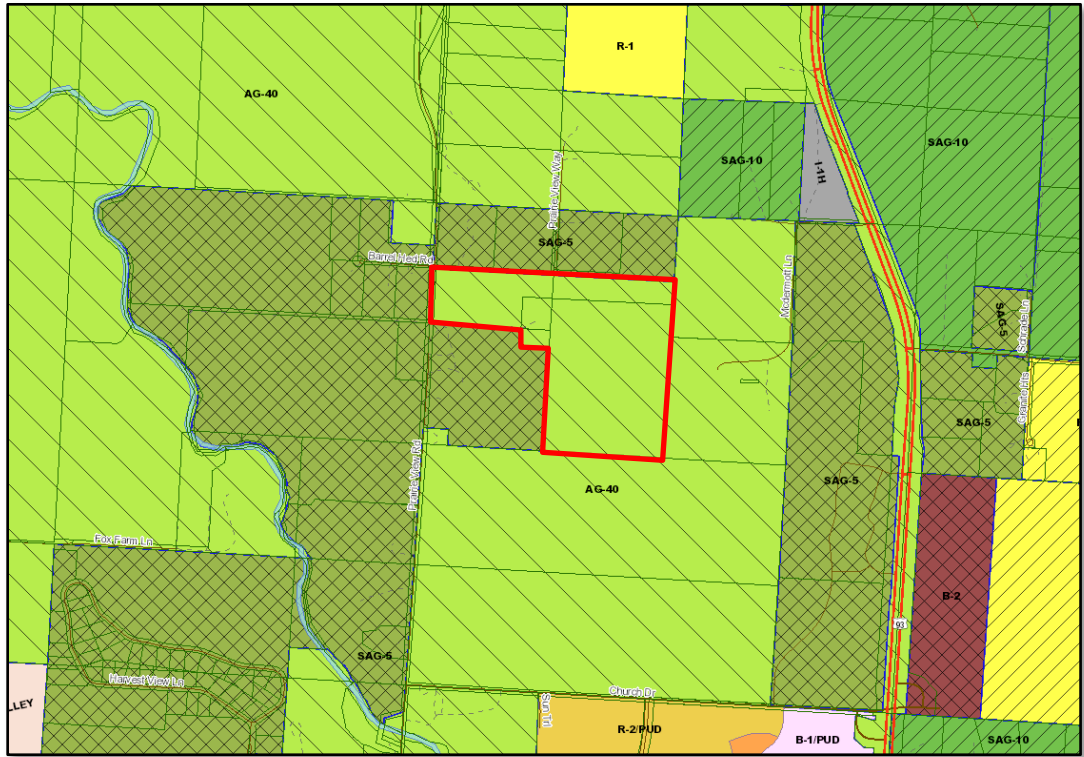
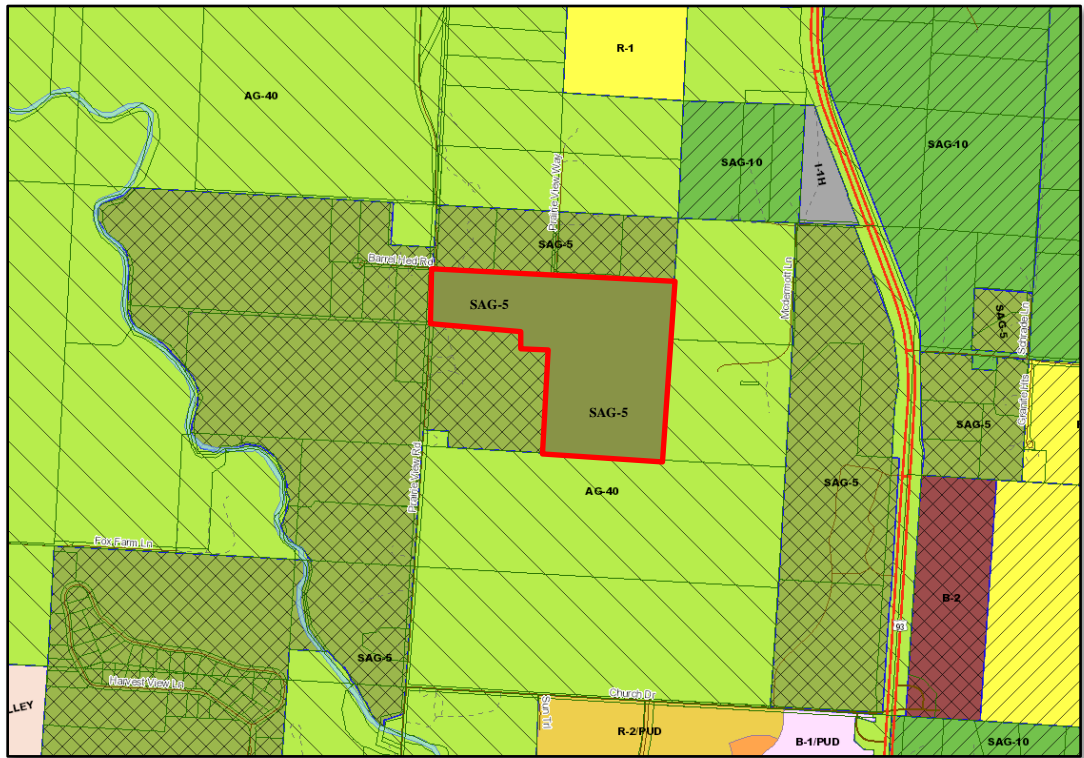


Figure 3: Proposed SAG-5 zoning on the subject property (outlined in red)



D. General Character of and Reason for Amendment

The subject property is 78 acres located on gently rolling, open land that is currently used for one single-family residence, associated agricultural structures and agriculture (as visible in Figure 1 earlier in this report).

The applicant is requesting a zoning map amendment to change the zoning on the subject property from “AG-40 Agricultural” to “SAG-5 Suburban Agricultural.” The zoning map amendment, if approved, will decrease minimum lot sizes from 40 acres to five acres, eliminate some rural permitted uses and increase the number of conditional uses requiring review through the conditional use permit process. According to the application, the proposed amendment is necessary because “The current zone limits the minimum lot size to 40 acres. The owner would like to create some smaller lots at some point in the future.”

E. Adjacent Zoning and Character of the Overall Zoning District

The subject property is bordered on the north and west by “SAG-5 Suburban Agricultural” and on the south and east by “AG-40 Agricultural” zoning and is located within the overall boundaries of the Highway 93 North Zoning District. The Highway 93 North Zoning District is large, covering much of the central area of the Flathead Valley and includes many varied zoning classifications and existing land-use characteristics. Land uses range from rural agricultural and silvicultural to various densities of residential uses to commercial and industrial land uses adjacent to U.S. Highway 93. Given the scale of the landscape and distances travelled for resident’s daily interactions in this part of Flathead County, staff felt that examining an approximately two-mile radius from the subject property incorporated the character of the area of the proposed zoning map amendment.

The character of the area around the subject property within an approximately two-mile radius is a mixture of rural and urban land uses and densities in a centrally-located part of the Flathead Valley. Rural land uses are generally large agricultural fields and active farming operations with interspersed residential land uses at varying densities. Large acreage commercial land uses including a race track and a commercial arena are located east of the subject property and mini-storage, a restaurant and retail complex also exist to the northeast of the subject property, all accessed from US Highway 93. The Flathead County landfill is located less than a mile straight north of the subject property. Urban land uses consist primarily of high-density residential within the northernmost limits of the City of Kalispell approximately one mile south of the subject property. Urban commercial land uses are planned for the intersection of Church Drive and US Highway 93.

It is worth noting other rural zoning map amendments that have occurred within the area of the subject property within the last 10 years. In 2004, a zoning map amendment on 458 acres to the west of the subject property from AG-40 to SAG-5 (the same change as is currently requested) was approved by the Flathead County Commissioners (file #FZC-04-03). A similar zoning map amendment request directly north of the subject property was reviewed and partially approved in 2008. Only a

portion of that zoning map amendment request (the portion adjacent to the subject property) was approved (file #FZC-08-07) because a part of that 2008 amendment request property was designated “landfill transition zone” in the Riverdale Neighborhood Plan and a portion of the requested zoning did not comply with the plan. Other zoning map amendments from AG-40 to SAG-10, SAG-5, B-2 and I-1H have occurred in the area of the subject property since the Highway 93 North Zoning District was first adopted in 1991.

There are two major subdivisions near the subject property that have been developed with a zoning similar to that which is being requested. A 45-lot cluster subdivision called Harvest View Subdivision with an overall gross density of 3.48 acre lots that was final platted in 2008 is southwest of the subject property. A 5-lot minor subdivision called Barrel Hed Acres that created four 5-acre lots and one 7.35-acre lot was final platted in 2006 and is west of the subject property.

Residential properties within two miles of the subject property vary in size from high-density Kalispell city lots in the Silverbrook development to the south, to medium-sized residential lots just under one acre in size within the rural Harvest View cluster subdivision to the southwest, to five to ten acre rural residential tracts to the north and west, and large agricultural tracts ranging from 40 acres to nearly 120 acres in size to the south.

Zoning classifications within two miles of the subject property vary widely and include B-2 General Business and I-1H Light Industrial-Highway along Highway 93 to the northeast, R-1 Residential to the north, West Valley (a residential zone) to the west and southwest, AG-40 Agricultural, SAG-10 and SAG-5 Suburban Agricultural to the north, west and south, and City of Kalispell R-2, R-4 and B-1 PUD to the south.

When a change of land use designation is requested (in this case AG to SAG) the “three part test” for spot zoning established by legal precedent in the case of *Little v. Board of County Commissioners* is reviewed specific to the requested map amendment. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application.

i. The Zoning Allows A Use That Differs Significantly From The Prevailing Use In The Area.

The requested SAG-5 zoning classification would allow for several uses by conditional use permit that are not allowed within the current AG-40, and would change the minimum lot size from 40 acres to five acres. Generally the SAG-5 zoning has fewer permitted uses (uses allowed without review by the county) than the AG-40 zoning, but has more land uses listed as conditional uses (uses requiring conditional use permit review to determine appropriateness on a case by case basis). SAG-5 zoning allows by conditional use permit some large-acreage commercial uses like golf courses, driving ranges, commercial kennels, high

impact recreational facilities, arenas and RV parks. SAG-5 zoning also allows minimum lot sizes of five acres. Existing residential densities of approximately five acres that are similar to what the proposed zoning would allow can be found in the area of the proposed zone change. Harvest View Subdivision with an overall gross density of 3.48 acre lots, Barrel Hed Acres with four 5-acre lots, and various pieces of tract land at five acres or less can all be found in the area of the proposed zoning. Finally, SAG-5 zoning already exists covering over 600 acres adjacent to the subject property. Therefore, the proposed zoning would allow uses and densities that do not significantly differ from the prevailing uses and densities in the area.

ii. The Zoning Applies To A Small Area Or Benefits A Small Number Of Separate Landowners.

The proposed zoning map amendment involves 78 acres owned by one landowner. As shown in Figure 3 earlier in this report, the subject property is adjacent to over 600 acres that was changed to SAG-5 by adjacent landowners in 2004 and 2008. Considering the overall size of the Highway 93 North Zoning District, the presence of a large similarly zoned area adjacent to the subject property, as well as the mix of tract and lot sizes and land uses in the area around the proposed zoning map amendment, the proposed zoning does not stand out as applying to an unreasonably or noticeably small area. The proposed zoning is at the request of and does benefit only one separate landowner (Edward & Lisa Wolfe) so since this portion of the three part test for spot zoning is a small area OR a small number of landowners, the proposed zoning map amendment appears to meet this portion of the test.

iii. The Zoning Is Designed To Benefit Only One Or A Few Landowners At The Expense Of The Surrounding Landowners Or The General Public And, Thus, Is In The Nature Of Special Legislation.

The proposed zoning amendment is at the request of one landowner, but is a request to change the zoning to a classification that is already present in the area and adjacent to the subject property. As shown in Figure 3 earlier in this report, the subject property upon which the change to SAG-5 zoning is proposed is adjacent to over 600 acres that are already zoned SAG-5 and was changed to SAG-5 from AG-40 by adjacent landowners in 2004 and 2008. The requested SAG-5 zoning classification therefore allows uses and lot sizes that are already contemplated for future development by a relatively large area of adjacent zoning. Additionally, the permitted and conditional uses and bulk and dimensional requirements in the existing AG-40 zoning classification and the proposed SAG-5 zoning classification are similar to the current prevailing uses and lot sizes in the area of the proposed zoning map amendment (see Section II(E) earlier in this report). The Riverdale Neighborhood Plan contemplates the appropriate densities for this area when services and infrastructure exist and designates the subject property as “Residential Low (1 Acre/DU).” Since Prairie View Road is a gravel road, a higher density such as R-2.5 or R-1 is not appropriate at this time. However, the proposed SAG-5 zoning is therefore significantly less dense than

the future planned density for this property. A more detailed analysis of the Riverdale Neighborhood Plan appears later in this report. Lastly, the public services and infrastructure currently in place at this central location in the Flathead Valley are appropriate to support the suburban agricultural land uses and density of the SAG-5 zoning classification. For a more thorough analysis of public services and infrastructure, see Section IV later in this report. Therefore, although the proposed zoning map amendment is at the request of one landowner, a change to the requested zoning classification on the subject property would not be at the expense of the surrounding landowners or the general public.

In summary, all three criteria must be met for the application to potentially be considered spot zoning. The proposed zoning map amendment does not appear to be at risk of spot zoning, as it does not appear to meet all three of the criteria.

Finding #1: The proposed zoning map amendment from AG-40 to SAG-5 is not at high risk of being determined by a court to be “spot zoning” because it does not meet all three parts of the three part test established by the Montana Supreme Court in *Little v. Board of County Commissioners Flathead County* to determine whether a zoning amendment constitutes spot zoning.

F. Public Services and Facilities

Sewer:	N/A
Water:	N/A
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Whitefish School District #44 Whitefish High School District
Fire:	West Valley Fire District
Police:	Flathead County Sheriff’s Office

G. Criteria Used for Evaluation of Proposed Amendment

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

H. Compliance With Public Notice Requirements

Adjacent property notification regarding the proposed zoning map amendment and opportunities for public comment was mailed to property owners within 150 feet of the subject property on June 10, 2015. Legal notice of the June 15, 2015 Riverdale Land Use Advisory Committee meeting and the July 08, 2015 Planning Board public hearing on this application will be published in the June 14, 2015 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment will be physically posted on the subject property and within the zoning district according to statutory requirements found in 76-2-205 M.C.A. Notice of the Commissioner's public hearing will also be published once a week for two weeks in the legal section of the Daily Interlake. All methods of public notice will include information on the boundaries of the proposed zoning map amendment, the general character of the proposed zoning map amendment and the date, time, and location of the public hearing.

I. Agency Referrals

Referrals were sent to the following agencies on May 06, 2015 with a request to comment by May 20, 2015:

- Bonneville Power Administration
 - Reason: BPA has requested that anytime agency referrals are sent they receive a copy.
- Montana Fish, Wildlife, and Parks
 - Reason: Increased development as a result of the zoning map amendment may impact wildlife in the area.
- Flathead City-County Health Department; Environmental Health Services
 - Reason: Increased development as a result of the zoning map amendment may necessitate review by the Department.
- Flathead County Public Works/Flathead County Road Department
 - Reason: The zone change request has the potential to impact County infrastructure.
- Flathead County Sheriff
 - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing services.
- Flathead County Solid Waste
 - Reason: The type and amount of solid waste resulting from uses permitted within the proposed zone change could have an impact on existing public services.
- Flathead County Weeds and Parks Department
 - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing public services and facilities.
- Whitefish School District #44
 - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing school services.
- Whitefish High School District
 - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing school services.
- West Valley Fire District
 - Reason: The subject property is located within the jurisdiction of the local fire district and increased development as a result of the zoning map amendment could impact the level of service available.
- Kalispell Planning Department

- Reason: Although the subject property is outside the Kalispell Growth Policy and Annexation Policy boundaries, given the proximity to Kalispell city limits an opportunity for comment is appropriate.
- Whitefish Planning Department
 - Whitefish has historically expressed interest in growth and development in rural Flathead County between Kalispell and Whitefish.
- Montana Department of Natural Resources and Conservation
 - The subject property utilizes irrigation so an opportunity to comment on water rights is appropriate.

III. COMMENTS RECEIVED

A. Public Comments

Typically draft staff reports are finalized to allow for peer review and editing approximately 12-13 working days prior to the Planning Board public hearing, then mailed to the Planning Board 10 working days prior to the public hearing. However, to accommodate scheduling requirements of the Riverdale Land Use Advisory Committee (RLUAC), this staff report was finalized to allow for peer review and editing as of 5:00 p.m. on June 10, 2015 so that a final version could be emailed to the RLUAC on June 11, 2015 prior to that group's meeting on June 15, 2015. As of the date this staff report was finalized for peer review (5:00 p.m. on June 10, 2015), no public comments had been received regarding the requested zoning map amendment.

Any member of the public or a public agency wishing to provide comment on the proposed zoning map amendment may do so at the RLUAC meeting scheduled for June 15, 2015, the Planning Board public hearing scheduled for July 08, 2015 and/or the Commissioner's hearing, for which a date will be set after a recommendation is made by the Planning Board. Any written comments received following the finalizing of this staff report will be collected and presented and summarized to the RLUAC (if received prior to 5:00 p.m. on June 15, 2015) and the Flathead County Planning Board (if received prior to 5:00 p.m. on July 08, 2015). After a recommendation from the Planning Board, all public comments will be forwarded to the Flathead County Commissioners prior to their legally required public hearing.

B. Agency Comments

The following is a summarized list of agency comment received as of the date this staff report was finalized:

- Flathead County Weed, Parks and Recreation
 - Comment: A field inspection of the subject property was conducted on May 11, 2015. A letter to the landowner and a copy of a Weed Inspection Report was mailed to the landowner and our office was cc'd as an agency referral. According to the cover letter that accompanied the report, "It is the landowners' responsibility to control noxious weeds on their land – MCA Section 7-22-2116. A noxious weed is legally defined as 'any exotic plant species that may render land unfit for agriculture, forestry, livestock, wildlife or other

beneficial uses, or that may harm native plant communities.’ Most noxious weeds thrive when soil is disturbed. Some can grow from root parts, as well as seeds that become exposed.” The cover letter references a subdivision but no subdivision of land is taking place presently. The cover letter recommends a weed prevention plan, similar to language found in the report. According to the Weed Inspection Report, no weeds were present on the subject property but a weed management plan is still required. Staff contacted Steve Robinson with the Flathead County Weed Department to follow up on the required Weed Management Plan. On June 07, 2015 Mr. Robinson confirmed that a plan is on file and the property is compliant. Original letter dated May 13, 2015. Subsequent email correspondence dated June 07, 2015.

- Flathead City-County Health Department
 - Comment: Provided clarification that if the existing larger tracts are divided, the division will be reviewed for water supply, wastewater disposal, solid waste disposal and storm water drainage. Letter dated May 07, 2015.
- Flathead County Road & Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.” Received May 14, 2015.
- Bonneville Power Administration
 - Comment: “In reviewing the proposed plan, it appears this request will not affect any BPA facilities located within this area. BPA does not have any objections to the approval of this request at this time.” Email dated May 11, 2015
- Montana Fish, Wildlife and Parks (FW&P)
 - No Comment. Received May 20, 2015.

IV. EVALUATION OF PROPOSED AMENDMENT

A. Build Out Analysis

Once a specific zoning designation is applied in a certain area, landowners have land uses that are allowed by-right. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those by-right uses. It is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

i. Current Zoning

The proposed zoning map amendment would change the zoning designation on the subject property from the existing “AG-40 Agricultural.” AG-40 is defined in

Section 3.05 FCZR as, *“A district to protect and preserve agricultural land for the performance of a wide range of agricultural functions. It is intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development.”* The following is a list of permitted uses in an “AG-40 Agricultural” zone:

1. Agricultural/horticultural/silvicultural use.
2. Cellular tower.
3. Class A and Class B manufactured home.
4. Cluster housing.
5. Dairy products processing, bottling, and distribution.
6. Day care home.
7. Dwelling, single-family.
8. Dwelling unit, accessory (ADU).
9. Guest house.
10. Fish hatchery.
11. Home occupation.
12. Homeowners park and beaches.
13. Kennel.
14. Livestock.
15. Nursery, landscaping materials.
16. Park.
17. Produce stand.
18. Public transportation shelter station.
19. Public utility service installation.
20. Ranch employee housing.
21. Riding academy, rodeo arena.
22. Stable, public and private.

The following uses are listed as conditional uses in an “AG-40 Agricultural” zone. An asterisk designates conditional uses that may be reviewed administratively:

1. Airport.
2. Animal Farm
3. Animal hospital, veterinary clinic.
4. Bed and breakfast establishment.
5. Camp and retreat center.
6. Caretaker’s facility.*
7. Cemetery, mausoleum, columbarium, crematorium.
8. Church and other place of worship.
9. Communication tower/mast.
10. Community center building operated by a non-profit agency.
11. Contractor’s storage yard.*
12. Dwelling, family hardship.*
13. Electrical distribution station.

14. Extractive industry.
15. Feed and seed processing and cleaning.
16. Feed lot: cattle, swine, poultry.
17. Landfill, sanitary for disposal of garbage and trash.
18. Radio and television broadcast studio.
19. Recreational facility, low-impact.
20. Rifle Range.
21. School, primary and secondary.
22. Temporary building or structure.*
23. Water and sewage treatment plant.
24. Water storage facility.

The bulk and dimensional requirements in the AG-40 zoning requires a setback for the principal structure from boundary lines of 20 feet from the front, rear, side and side-corner. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet from the rear and side. Additionally there are provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials.

The maximum allowable building height is 35 feet for all structures (agricultural buildings are exempt) and the permitted lot coverage is 20%. The subject property is approximately 78 acres and a minimum lot area of 40 acres is required under the current AG-40 zoning. The subject property could therefore not be subdivided under the current zoning. Utilization of bonus density scenarios through clustering or a Planned Unit Development (PUD) would be unlikely in the AG-40 zoning for 78 acres.

ii. **Proposed Zoning**

As previously stated, the applicant is proposing “SAG-5 Suburban Agricultural” zoning. SAG-5 is defined in Section 3.08.010 FCZR as, “*A district to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*” The following is a list of permitted uses in a SAG-5 zone:

1. Agricultural/horticultural/silvicultural use.
2. Class A and Class B manufactured home.
3. Cluster housing.
4. Day care home.
5. Dwelling, single-family.
6. Dwelling unit, accessory (ADU).
7. Guest house.

8. Home occupation.
9. Homeowners park and beaches.
10. Livestock.
11. Nursery, landscaping materials.
12. Park and publicly owned recreational facility.
13. Produce stand.
14. Public transportation shelter station.
15. Public utility service installation.
16. Stable, private.

The following uses are listed as conditional uses in an SAG-5 zone. An asterisk designates conditional uses that may be reviewed administratively:

1. Airfield.
2. Aircraft hangars when in association with properties within or adjoining an airport/landing field.*
3. Animal hospital, veterinary clinic.
4. Bed and breakfast establishment.
5. Camp and retreat center.
6. Caretaker's facility.*
7. Cellular tower.*
8. Cemetery, mausoleum, columbarium, crematorium.
9. Church and other place of worship.
10. Community center building operated by a non-profit agency.
11. Community residential facility.**
12. Contractor's storage yard.*
13. Dwelling, family hardship.*
14. Electrical distribution station.
15. Extractive industry.
16. Golf course.
17. Golf driving range.
18. Kennel, commercial.*
19. Manufactured home park.
20. Recreational facility, high-impact.
21. Recreational facility, low-impact.
22. Recreational vehicle park.
23. Riding academy and rodeo arena.
24. School, primary and secondary.
25. Stable, public.
26. Temporary building or structure.*
27. Water and sewage treatment plant.
28. Water storage facility.

The bulk and dimensional standards under SAG-5 zoning requires a setback from the boundary line of 20 feet for the front, rear, side and side-corner yards for the principal structure. The minimum setback requirement for accessory structures is

20 feet for the front and side-corner yards and 5 feet from the rear and side yards. The zoning designation also allows for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials.

The proposed SAG-5 zoning has a minimum lot area of 5 acres. The maximum allowable building height is 35 feet for all structures and the permitted lot coverage is 25%. The subject property totals 78 acres therefore mathematically under the proposed SAG-5 zoning 15 lots could be created on the subject property. In a standard SAG-5 development scenario, the actual number of lots created may be slightly less due to access, lot layout, environmental and/or infrastructure requirements of the Flathead County Subdivision Regulations. However, density bonuses of either 150% of the standard number of dwelling units could be allowed under residential clustering provisions found in Section 5.09 of the Flathead County Zoning Regulations or two dwelling units per five acres if a development was a Planned Unit Development (PUD) per Section 3.31 of the Flathead County Zoning Regulations. All of these maximum build-out development scenarios would require review and approval of a subdivision, and a PUD would also require zoning review.

In summary, the bulk and dimensional requirements are similar in AG-40 and SAG-5 with the exception of minimum lot size, maximum height of structures and permitted lot coverage. The requested zone change from AG-40 to SAG-5 does increase permitted density on the subject property by allowing additional lots through subdivision or utilization of an exemption to subdivision, such as family transfer. Since five-acre parcels would be allowed under the proposed SAG-5 zoning, it is important to contemplate whether or not five-acre parcels are appropriate for the subject property based on the criteria for zoning found in Section B below.

The SAG-5 zone allows for a variety of different uses from what is currently allowed under the existing AG-40. Generally the SAG-5 zoning has fewer permitted uses (uses allowed without review by the county) than the AG-40 zoning, but has more land uses listed as conditional uses (uses requiring conditional use permit review to determine appropriateness on a case by case basis). SAG-5 zoning allows by conditional use permit more large-acreage commercial uses like golf courses, driving ranges, commercial kennels, high impact recreational facilities, arenas and RV parks. Conditional Use Permits are required for these uses to allow for site-specific evaluations of proposed land uses.

In other words, all areas zoned SAG-5 are deemed as appropriate locations for those uses listed as “permitted” so no site specific review is required, but those uses listed as “conditional uses” have been determined to possibly be appropriate, depending on the site-specific circumstances. Those circumstances are the criteria for reviewing a Conditional Use Permit, found in Section 2.06 of the Flathead County Zoning

Regulations. Therefore, the more potentially impactful land uses contemplated within the SAG-5 zone will be reviewed in the future to determine if the site-specific circumstances are appropriate at the time and in the manner proposed by the developer and if adequate mitigation of impacts is proposed by the developer.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

i. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

Flathead County Growth Policy

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R). The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Agricultural.’ The requested Suburban Agricultural zoning classification would appear to contrast with the current Agricultural designation. However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, *“This map depicts areas of Flathead County that are legally designated for particular use. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plan. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map.”* Therefore, staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on policies, rather than maps in the document.

Following is a consideration of goals and policies which appear to be applicable to the proposed zone change, to determine if the proposal complies with the Growth Policy:

- ❖ **G.2** – *Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*
- ❖ **G.3** – *Preserve the cultural integrity of private and public agriculture and timber lands in Flathead County by protecting the right to active use and management and allowing a flexibility of private land use that is economically and environmentally viable to both the landowner and Flathead County.*

- The SAG-5 designation continues to allow for agriculture, but also allows a greater diversity of private land uses (many of which are reviewed for location-specific impacts through the CUP process) in a historically agricultural but transitioning area of the Flathead valley.
- **P.3.5** – *Identify reasonable densities for remote, rural development that do not strain the provision of services or create a public health or safety hazard.*
 - Five acre lots would not require public water and sewer and Church Drive is a County collector capable of handling increased traffic. Prairie View Road is a gravel road, but SAG-5 development densities that may negatively impact the gravel portion of Prairie View Road would likely trigger the off-site road improvement requirements of the Flathead County Subdivision Regulations. Additionally, no negative responses from public service providers have been provided.
- ❖ **G.4** – *Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility of land uses.*
 - The SAG-5 designation allows for agriculture and forestry, but provides the land owner with more flexibility when it comes to a minimum lot area.
- ❖ **G.8** – *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.*
 - The SAG-5 designation would allow for densities of one dwelling unit per five acres and would not require paved roads or public water, sewer and storm water services. The subject property is in an area already transitioning to suburban agricultural land uses (including adjacent large-acreage commercial land uses) and densities so the requested amendment is not out of character with the area. See Section IV.A earlier in this report.
- ❖ **G.31** – *Growth that does not place unreasonable burden on the school district to provide quality education.*
 - An agency referral was mailed to both Whitefish High School and Whitefish School District #44 on May 06, 2015. No comments were received from either district, therefore there is no evidence to indicate the proposal would adversely impact area school districts. Further discussion on how the proposed zoning map amendment furthers the provision of schools and other public requirements can be found in Section B.ii.3 later in this report.
- ❖ **G.32** – *Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*
- ❖ **G.33** – *Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*

- Agency referrals were sent to the Flathead County Sheriff and the West Valley Fire District on May 06, 2015. No comments were received from either agency, so there is no evidence to indicate the proposal would adversely impact emergency services. This report contains additional discussion on the adequacy of emergency service in Section B.ii.1 and B.ii.2 below.

Finding #2: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request, the ‘Agriculture’ land use designation identified by the Designated Land Use Map does not appear to be compatible with the proposed zoning the map but that map only portrays zoning which was established at the time the map was created and the map is therefore not a future land use map, paved roads, public water and sewer service are not required for SAG-5 zoning, Church Drive is a county collector capable of accommodating increased traffic associated with the proposal and if the property is developed to a density that may negatively impact the gravel portion of Prairie View Road it will likely trigger the off-site road improvement requirements of the Flathead County Subdivision Regulations.

Riverdale Neighborhood Plan

The subject property is also within the jurisdiction of the Riverdale Neighborhood Plan, adopted on February 21, 2008 (Resolution #2015D). Staff has reviewed the text, policies and maps of that plan. The Riverdale Neighborhood Plan specifically states that the future of the plan area is a “predominantly small and large parcel residential neighborhood, coupled with business and neighborhood commercial land use categories” (Page 13). Unlike the Flathead County Growth Policy, the Riverdale Neighborhood Plan does contain a “Future Land Uses” map (Map #9). The Future Land Use map specifically designates the subject property as “Residential Low (1 Acre/DU).” Although it would seem that a zoning classification allowing more density than the requested zoning is contemplated by the Riverdale Neighborhood Plan, the plan is clear that future development is tied to infrastructure availability (pages 29, 34 and 36). Since the subject property is accessed by a ½ mile of gravel road and denser residential zoning (such as R-2.5) requires paved roads, public infrastructure simply doesn’t support a denser zoning at this time. Additionally, no subdivision plans were submitted or proposed jointly with this zoning map amendment at a density that would trigger off-site improvements as a mitigation of impacts (to therefore warrant a denser zoning classification). Therefore higher density zoning isn’t appropriate at this time. Policy 1.6 encourages the development of larger, estate lots. The text describing the Residential Suburban land use designation states on page 30 that commercial land uses are not appropriate. However, the text also states that the SAG-5 zoning district is consistent with the Residential Suburban land use designation.

The Riverdale Neighborhood Plan states in many places that just because an area is designated a certain way on the Future Land Use map, any request for a zone

change must determine if the infrastructure and services are in place to support the proposed zoning. Unlike the higher density range of the Residential Suburban land use designation (2.5 acre lots), the requested SAG-5 zoning does not require paved roads, nor are public water or sewer services required for any density in the Residential Suburban designation. Policy 12.5 states that all roads within the plan area shall be paved by developers as development occurs, but a proposed zoning map amendment would not qualify as “development.” Off-site road improvement requirements may be required at the time of subdivision and/or review of a PUD or Conditional Use Permit, depending on the impacts of the proposed development.

Overall, given the transitioning nature of this area of the Riverdale Neighborhood Plan (see Figure #2 earlier in this report) and the mixture of residential lot and tract sizes in the area (which complies with Goal #1 of the Riverdale Neighborhood Plan) and the large-acreage, rural character commercial uses allowed in the SAG-5 zoning, it would appear that the requested zoning map amendment generally complies with the Riverdale Neighborhood Plan.

Finding #3: The requested zoning map amendment to SAG-5 appears to comply with the Riverdale Neighborhood Plan because the character of the area around the subject property is consistent with the existing mix of densities land uses, the proposed SAG-5 zoning is less dense than what is contemplated in Map #9 Future Land Use, and given the transitioning nature of densities and land uses on adjacent properties and in the area of the proposed zoning map amendment, services and infrastructure are appropriate to support five acre lots in this area at this time.

ii. Whether the proposed map amendment is designed to:

1. Secure safety from fire and other dangers;

The subject property is located within the West Valley Fire District and is virtually surrounded by existing rural fire stations. West Valley fire stations are 6 miles and 5 miles from the subject property, and Whitefish Rural Fire District has a fire station to the northeast that is also about 6 miles away on Hodgson Road. West Valley has another fire station to the southwest that is 7 miles away, and the City of Kalispell has a fire station 6 miles south of the subject property. This distance from multiple fire stations is consistent with other areas of the county for providing fire services and therefore seems reasonable for the proposed SAG-5 zoning. The applicant does not appear to have contacted the West Valley Fire District, but an agency referral was sent on May 04, 2015 and no response has been received, indicating no concern with the proposed zoning map amendment.

The subject property is not located within the Wildland Urban Interface but the subject property is mapped as “County Wide Priority Area” for fuels reduction. It is not immediately clear why the property falls within a priority area for fuels reduction. The property is primarily an open field with some

trees located adjacent to the existing single family home. Since there were no comments from the local fire district, and staff can't identify any obvious fire hazards in the area, it is reasonable to conclude that the proposed zoning would not create a wildland fire safety hazard.

The subject property is located north of Church Drive off Prairie View Road. Prairie View is a gravel two lane County road within a 60 foot easement and is classified as a county local road. Prairie View Road appears adequate to provide ingress and egress to the subject property for emergency services. If the property were to be developed at a density that may introduce impacts (such as more than a few family transfer tracts), the subdivision regulations require off-site road improvements using the direct impact formula that are proportional to the impact of development. A more detailed discussion of the provision of transportation can be found in Section 3 later in this report.

The subject property is located on FEMA FIRM Panel on 30029C1415G and is entirely designated as Zone X, areas determined to be outside the 0.2% annual chance floodplain.

Finding #4: The proposed map amendment would secure safety from fire and other dangers because the property is located within a reasonable distance from multiple fire stations, the property is accessed from a gravel county local road capable of accommodating emergency vehicles or that will likely be improved using the direct impact formula if the property is subdivided in the future, the property is not located in a WUI and although mapped as a fuels reduction priority area, fuels reduction does not appear to be a necessity at this time and the property is mapped as Zone X (an area determined to be outside the 0.2% annual chance floodplain).

2. Promote public health, public safety, and general welfare;

As discussed in the previous section, the subject property is within the West Valley Fire District and is within 5-7 miles road distance from multiple fire stations. The property is accessed from Prairie View Road, a gravel county local road. Any development to a density that may create impacts to off-site roads will trigger the off-site improvement requirements of the Flathead County Subdivision Regulations. Any subdivision of land, through either an exemption to the Montana Subdivision and Platting Act (such as family transfer) or through review under the act would be required to undergo review for compliance with the Sanitation in Subdivision Act, ensuring protection of public health with regard to water, wastewater and storm water.

The SAG-5 zoning classification would allow for some uses that are different from what is allowed within the current AG-40. Within the AG-40 zone 'Dairy products processing, bottling, and distribution,' 'Fish hatchery,' and 'Ranch employee housing' are permitted uses but not allowed in SAG-5.

Four uses are permitted outright in AG-40 but require issuance of a Conditional Use Permit (CUP) in SAG-5, they include:

- 'Cellular tower,'
- 'Kennel,'
- 'Riding Academy, rodeo arena'
- 'Stable, public,'

There are five uses allowed in the AG-40 with a CUP that are not allowed at all in the SAG-5, these are:

- 'Animal farm,'
- 'Communication tower/mast,'
- 'Feed and seed processing and cleaning,'
- 'Feed lot: cattle, swine, poultry,' and
- 'Radio and television broadcast studio.'

There are seven uses allowed in the SAG-5 with a CUP that are not allowed in the AG-40, they include:

- 'Aircraft hangars when in association with properties within or adjoining an airport/landing field,'
- 'Community residential facility,'
- 'Golf course,'
- 'Golf driving range,'
- 'Manufactured home park,'
- 'Recreational facility, high impact,' and
- 'Recreational vehicle park.'

The proposed SAG-5 zone has the same uses that are allowed within the adjoining SAG-5 zoning to the north and west of the subject property. As was discussed earlier in this report, the densities and land uses permitted in the proposed SAG-5 zoning already exist within the area around the subject property. A cluster subdivision that has a gross density of less than five acre lots is located to the southwest, a subdivision of five acre lots is located adjacent to the west, a range of lot and tract sizes from one acre to 80 acres surround the property within an approximately two-mile radius. Agricultural, large-acreage commercial and residential land uses all exist near the subject property in this centrally located portion of the Flathead Valley. Furthermore, most land uses with the greatest potential to impact neighbors are listed as Conditional Uses in the SAG-5 zoning. Conditional Use Permit review specifically reviews impacts of a proposed use based on the unique attributes of the land and area in which it is proposed. This review ensures mitigation of potential negative impacts, or may even result in denial if a location simply isn't appropriate based on the criteria for review or the applicant's inability to adequately demonstrate compliance with the criteria.

Finding #5: The proposal would not have a negative impact on public health, public safety and general welfare because the property is served by the West Valley Fire Department and multiple fire stations are within approximately five to seven road miles of the subject property, the Flathead County Sheriff's Office serves the subject property, future development would be reviewed for

conformance with the Sanitation in Subdivision Act ensuring appropriate water, wastewater and storm water, future development would be similar to uses and densities already in the area and the proposed SAG-5 zone would require location-specific review through the CUP process of the most potentially impactful land uses to ensure mitigation of negative impacts.

3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

It is anticipated that future development of the subject property may include subdivision review, at which time specific impacts to transportation, water and sewer services would be considered and mitigated as determined to be appropriate. Family transfers would be exempt from review under the Montana Subdivision and Platting Act, but would still be reviewed under the Sanitation in Subdivision Act to ensure appropriate water, wastewater and storm water facilities. This zone change request is also an opportunity to assess if the property and public infrastructure could handle impacts associated with the proposed zone change.

Access to the subject property is currently via Prairie View Road which is a gravel two lane County collector located within a 60 foot easement. The nearest recent traffic counts by the Flathead County Road and Bridge Department are from June 2012 and indicate 238 average daily trips (ADT) on Prairie View Road just north of Church Drive. If the property was split using family transfer, the number of tracts created (typically two or three parcels) would add a relatively small amount of traffic to Prairie View Road. If the property was subdivided, the impacts to road infrastructure would be reviewed and would likely trigger off-site roadway improvement requirements. An ADT of 238 for Prairie View Road is low enough that most subdivision activity using Prairie View Road for access would likely trigger off-site improvements based on the direct impact formula used in the Flathead County Subdivision Regulations. For example, a 15-lot subdivision would introduce approximately 150 ADT to Prairie View Road. Per Section 4.7.17 of the Flathead County Subdivision Regulations, this subdivision would then be required to improve and pave 63% of Prairie View Road (the portion providing primary access to the example subdivision).

Comments received from the Flathead County Road and Bridge Department stated, “At this point the County Road Department does not have any comments on this request.” It is anticipated that because traffic would only increase by a minimal amount if additional tracts were created through an exemption and a larger number of lots would be reviewed as a subdivision and would likely require off-site roadways improvements, and because the Road and Bridge Department had no comment, the proposed zoning map amendment would still facilitate the adequate provision of transportation.

The subject property is currently developed with one single family home and accessory agricultural buildings. The applicant (or whoever may develop the subject property) will be required to work with Flathead City-County Health Department to develop an on-site well and sewer system to meet the needs of any future development. Comments received from the Flathead City-County Health Department states, "If the larger tracts are further divided into parcels less than 20 acres, the parcels are subject to review under the Sanitation in Subdivisions Act (Title 76.4.1). At that time water supply, wastewater disposal, solid waste disposal, and storm water drainage will be addressed. If parcels are 20 acres or larger, the process will be addressed locally by Environmental Health." Therefore, further subdivision of the property into parcels less than 20 acres would require Sanitations in Subdivisions Act review regardless of whether it is exempt from review under the Montana Subdivision and Platting Act (such as a family transfer).

The subject property is located within the Whitefish School District #44 and Whitefish High School District. According to the 2014 Statistical Report of Schools, Whitefish Elementary Schools have seen a decrease of 9% in student enrollment over the last ten years. Whitefish High School has seen a decrease of 31% in student enrollment over the last ten years. No comments were received from the Whitefish School District #44 or the Whitefish High School District. The applicant states that Whitefish Middle School and High School have recently had expansions and upgrades and cites that as an indication of adequate public facilities to accommodate any growth that results from the proposed zoning map amendment.

The zoning map amendment would change the current 40-acre minimum lot size to a smaller 5-acre minimum lot size. It is anticipated subsequent future development would require review and parkland may only be required at that time if the lots created would be five gross acres in size and not larger. Larger lots (greater than 5.00 acres) would not trigger parkland dedication requirements. Cluster subdivisions would also likely not require parkland dedication since open space preservation qualifies for a waiver of parkland dedication. However, there are many parks, natural areas, and recreational opportunities within a short drive and the property is not likely to effect the adequate provision of parkland. According to the applicant, "Children can take advantage of growing up in this paradise to ride bikes, or horses, swim, fish, build tree forts or play in the mud."

Finding #6: The proposed zoning map amendment would facilitate the adequate provision of transportation because Prairie View Road is a gravel two lane County local road with relatively low existing traffic volumes, future subdivision that creates a number of lots that may impact existing gravel road infrastructure will likely trigger off-site roadway improvements due to these relatively low existing traffic volumes, and the County Road Department had no comments regarding this proposal.

Finding #7: The proposal appears to not hinder the adequate provision of water, sewer, schools and parks because future development will require further review from the Montana Department of Environmental Quality and the Flathead City-County Health Department, the proposal may generate school-aged children but would likely not impact schools due to historic declines in enrollment and recent improvements in school facilities, no comments were received from the school districts and there are numerous parks, natural areas, and recreational opportunities in the vicinity.

iii. In evaluating the proposed map amendment, consideration shall be given to:

1. The reasonable provision of adequate light and air;

The proposed zoning map amendment has the potential to increase development density on the subject property. The bulk and dimensional requirements for the proposed SAG-5 zone are similar to the bulk and dimensional requirements for existing AG-40 with the exceptions being minimum lot size, building height restrictions and permitted lot coverage. The proposed SAG-5 zoning allows for eight times the density of the existing AG-40 zoning and the lot coverage for SAG-5 is 25% versus 20% for AG-20. Agricultural structures are exempt from building height restrictions in the existing AG-40 zoning.

Any new structures on additional lots created as a result of this proposed zone change would be required to meet the setbacks, maximum height, permitted lot coverage and minimum lot area requirements of the SAG-5 classification. The proposed SAG-5 zoning sets a maximum building height of 35 feet for all structures, the permitted lot coverage is 20% and the minimum lot area is 5 acres. The setback requirements in the proposed SAG-5 require a minimum of 20 feet for the front, rear, side and side-corner yards for principal structures and 20 feet for the front and side-corner yards and 5 feet for the side and rear yards for accessory structures. These bulk and dimensional requirements within the SAG-5 designation have been established to ensure a reasonable provision of light and air.

Finding #8: The proposed zone change would ensure the reasonable provision of light and air for development on the subject property because future development would be required to meet all bulk and dimensional requirements within the proposed SAG-5 designation including; setbacks, maximum height and permitted lot coverage requirements, and 5 acre lots will not restrict the adequate provision of light and air.

2. The effect on motorized and non-motorized transportation systems;

Access to the subject property is currently via Prairie View Road which is a gravel two lane County collector located within a 60 foot easement. The nearest recent traffic counts by the Flathead County Road and Bridge

Department are from June 2012 and indicate 238 average daily trips (ADT) on Prairie View Road just north of Church Drive. If the property was split using family transfer, the number of tracts created (typically two or three parcels) would add a relatively small amount of traffic to Prairie View Road. If the property was subdivided, the impacts to road infrastructure would be reviewed and would likely trigger off-site roadway improvement requirements. An ADT of 238 for Prairie View Road is low enough that most subdivision activity using Prairie View Road for access would likely trigger off-site improvements based on the direct impact formula used in the Flathead County Subdivision Regulations. For example, a 15-lot subdivision would introduce approximately 150 ADT to Prairie View Road. Per Section 4.7.17 of the Flathead County Subdivision Regulations, this subdivision would then be required to improve and pave 63% of Prairie View Road (the portion providing primary access to the example subdivision).

Comments received from the Flathead County Road and Bridge Department stated, "At this point the County Road Department does not have any comments on this request." It is anticipated that because traffic would only increase by a minimal amount if additional tracts were created through an exemption and a larger number of lots would be reviewed as a subdivision and would likely require off-site roadways improvements, and because the Road and Bridge Department had no comment, the proposed zoning map amendment will have no significant or deleterious effect on motorized transportation systems.

A portion of Church Drive south and east of the subject property is developed with sidewalks for the Silverbrook development within Kalispell city limits. Any development of the subject property is highly unlikely to impact this pedestrian, non-motorized transportation infrastructure due to the distance from the subject property not being a typical rural walking distance (that's not to say people don't or can't walk this distance, it's just not common enough to consider impacts of this AG-40 to SAG-5 zoning amendment to a city sidewalk over a mile away).

Currently there are no existing bike paths or sidewalks located along Prairie View Road north of the intersection with Church Drive near the subject property. Future rural development will likely not be required to provide sidewalks within the subdivision due to the relatively low SAG-5 density. Bicycle path easements may be required at the time of development for the approximately 600 feet of the subject property adjacent to Prairie View Road since Prairie View Road is identified in the Flathead County Trails Plan Appendix M Proposed Trail Network as a "Proposed Connector." Therefore there is no impact on existing non-motorized transportation systems on Prairie View Road because there are no existing trails or sidewalks but there is possibly a positive impact because future development may be required to dedicate bicycle path easement along Prairie View Road.

Finding #9: It is anticipated that the proposed zoning map amendment would have minimal effect on the motorized and non-motorized transportation systems because Prairie View Road is a gravel county local road and can accommodate a small number of additional trips if the property is split using an exemption to subdivision review and due to low traffic counts will likely be improved if the subject property is subdivided, the Road and Bridge Department has no comment regarding the proposal, the subject property is too far from existing pedestrian infrastructure in the area to have any impact, and there may be positive impacts to non-motorized transportation systems along Prairie View Road in the future because although no bike paths currently exist, the area is planned for a bicycle route and future development may be required to allocate easement along Prairie View Road for a bicycle path.

3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

The location of the proposed zoning map amendment is not directly adjacent to any city. The nearest municipality is the City of Kalispell, the northern city limits of which are just over one road mile south and southeast of the subject property. The downtown core of the City of Kalispell is located approximately 9 road miles away, to the south. Although the northern city limits of Kalispell are within the area of the proposed zoning map amendment, the Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2009, only extends to the south side of Church Drive (see Figure 4 later in this report). The subject property is located approximately 8/10 of a mile north of Church Drive off Prairie View Road and therefore not included in the future land use map. Since the City of Kalispell has not included the subject property in their Growth Policy, staff can reasonably conclude that the city has not determined what would be compatible growth for the subject property with the city's future growth in this area.

The proposed zoning is the same as county SAG-5 zoning found elsewhere outside of city limits but within the Kalispell Growth Policy boundaries, so the city is likely at least familiar with county SAG-5 zoning. The City of Kalispell adopted an Annexation Policy in March of 2011. The subject property is not included in the Annexation Policy Map. A request for agency comments was sent to the City of Kalispell on May 04, 2015 and as of the finalizing of this staff report, no comment has been received.

Finding #10: The proposed zoning map amendment would not affect urban growth in the vicinity of Kalispell because the map amendment is located outside the boundaries of both the Future Land Use Map and Annexation Policy Map adopted by the City of Kalispell, and no comments were provided by the City of Kalispell regarding the proposed zoning map amendment indicating the city has no significant concerns with compatibility of the proposed zoning amendment.

4. The character of the district(s) and its peculiar suitability for particular uses;

The property is bordered on the north and west by “SAG-5 Suburban Agricultural,” and on the south and east by “AG-40 Agricultural” zoning. The subject property is located within the overall boundaries of the Highway 93 North Zoning District. The Highway 93 North Zoning District is large, covering much of the central area of the Flathead Valley and includes many varied zoning classifications and areas with unique land-use characteristics. Land uses range from rural agricultural and silvicultural to various densities of residential uses to commercial and industrial land uses adjacent to U.S. Highway 93. Given the scale of the landscape and distances travelled for resident’s daily interactions in this part of Flathead County, staff felt that examining an approximately two-mile radius from the subject property incorporated the character of the area of the proposed zoning map amendment.

The character of the area around the subject property within an approximately two-mile radius is a mixture of rural and urban land uses and densities in a centrally-located part of the Flathead Valley. Rural land uses are generally large agricultural fields and active farming operations with interspersed residential land uses at varying densities. Urban residential densities occur within the northern city limits of the City of Kalispell approximately one mile south of the subject property. Large acreage commercial land uses including a race track and a commercial arena are located east of the subject property and mini-storage, a restaurant and retail complex also exist to the northeast of the subject property, all accessed from US Highway 93. The Flathead County landfill is located less than a mile straight north of the subject property.

It is worth noting other rural zoning map amendments that have occurred within the area of the subject property within the last 10 years. In 2004, a zoning map amendment on 458 acres to the west of the subject property from AG-40 to SAG-5 (the same change as is currently requested) was approved by the Flathead County Commissioners (file #FZC-04-03). A similar zoning map amendment request off of Prairie View Road and directly north of the subject property was reviewed and partially approved in 2008. Only a portion of that zoning map amendment request (the portion adjacent to the subject property) was approved (file #FZC-08-07) because a part of that 2008 amendment request property was designated “landfill transition zone” in the Riverdale Neighborhood Plan and a portion of the requested zoning did not comply with the plan. Other zoning map amendments from AG-40 to SAG-10, SAG-5, B-2 and I-1H have occurred in the area of the subject property since the Highway 93 North Zoning District was first adopted in 1991.

Based on the existing character of the district and the area around the subject property, the proposed SAG-5 zoning allows uses that are suitable. As discussed earlier in this report, many of the most potentially impactful land

uses in the SAG-5 zone require site specific review through the Conditional Use Permit process. This review process ensures that land uses are suitable at a specific location and offers a significant level of public participation to determine if a proposed use will unacceptably alter the character of a district. This process helps to ensure that uses that are generally suited for the character of the overall district are in fact also suited for a particular property at the time and in the manner that they are proposed.

Finding #11: The character of the district appears suitable for the proposed zoning map amendment because the uses permitted and conditionally permitted within the proposed SAG-5 zoning are similar to what is currently allowed and existing in the area of the proposed zoning map amendment and the Conditional Use Permit review process requires those uses that are potentially more impactful to be reviewed on a case-by-case basis to determine if the use is suited to the property at the time and in the manner it is proposed.

5. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

Previous sections of this report have detailed the differences between permitted and conditional uses in the existing AG-40 zoning and the proposed SAG-5 zoning. Conserving the value of buildings throughout the jurisdictional area is a function of allowing land uses that are appropriate and reasonable. Many of the land uses listed as *permitted* uses in the proposed SAG-5 zoning are already found in the area of the proposed zoning map amendment, or would not be out of character with the existing uses (examples include manufactured homes, single family dwellings, day care homes, private stables, livestock and agricultural land uses). These uses would not impact the value of buildings and would be appropriate land uses in this part of the Flathead Valley.

The land uses listed in the SAG-5 zoning that have the highest potential to impact neighbors and the value of buildings if not developed appropriately are on the list of *conditional* uses requiring public review through the Conditional Use Permit process (examples include churches, extractive industries, golf courses, kennels, high impact recreational facilities and public stables). This review process ensures the mitigation of negative impacts, or may even result in the outright denial of a proposed land use if it is deemed by the Board of Adjustment to be noncompliant with the criteria for review. The proposed SAG-5 zoning contemplates land uses that are reasonable to consider for this area of the Flathead Valley based on the existing character of the district and the level of public services and infrastructure present on the subject property. Additionally, the conditional use permit process ensures the most appropriate use of the subject property (and all zoned properties) on a case by case basis at the time and in the manner the property is proposed for development.

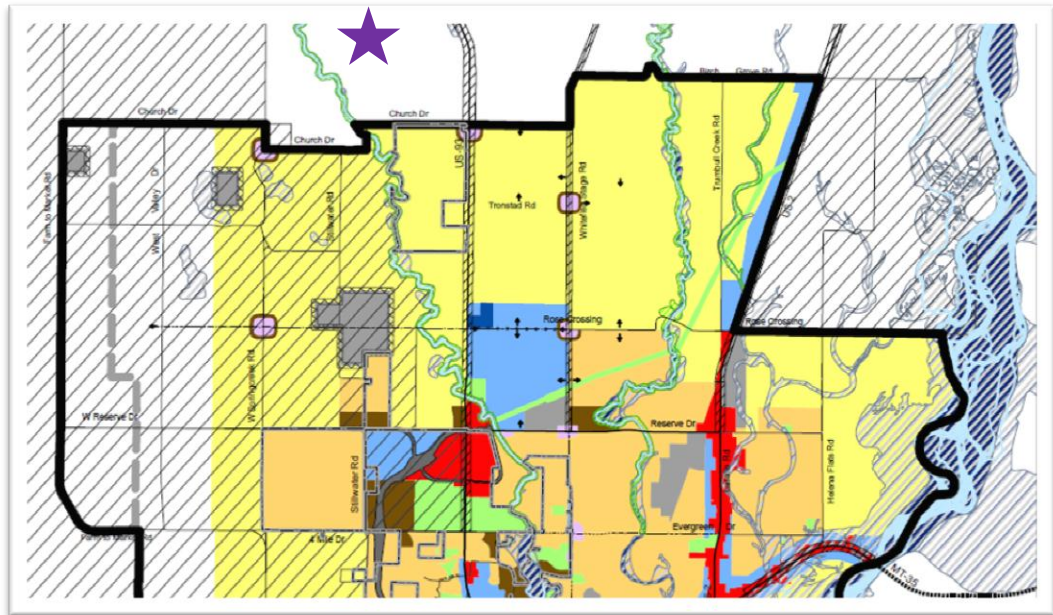
Finding #12: The proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land because the SAG-5 zoning is a common zone already used in this area of the Flathead Valley, many uses allowed as *permitted* uses in the SAG-5 zoning are already present in the area of the subject property and are therefore appropriate and would not harm the value of existing buildings, and those uses listed as *conditional* uses in the SAG-5 zoning would undergo a public process of review to ensure development is appropriate to the particular property at the time and in the manner it is proposed.

iv. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The location of the proposed zoning map amendment is not directly adjacent to any city. The nearest municipality is the City of Kalispell, the northern city limits of which are just over one road mile south and southeast of the subject property. The downtown core of the City of Kalispell is located approximately 9 road miles away, to the south. Although the northern city limits of Kalispell are within the vicinity of the proposed zoning map amendment, the Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2009, only extends to the south side of Church Drive (see Figure 4 below). The subject property is located approximately 8/10 of a mile north of Church Drive off Prairie View Road and therefore not included in the future land use map. Additionally, the City of Kalispell adopted an Annexation Policy in March of 2011 and the subject property is not included in the Annexation Policy Map.

Since the City of Kalispell has not included the subject property in their Growth Policy or Annexation Map, staff can reasonably conclude that the city has not determined what would be compatible with the city's future growth in this area. The City of Kalispell does not have a 5-acre, suburban agricultural zoning classification for properties within city limits, presumably because the land uses are too rural and the density is too low for typical urban development. Zoning classifications that are listed in the Kalispell Zoning Regulations are all far too dense and too intensive to be used on the subject property, nor is the subject property in city limits. The proposed zoning is the same as county SAG-5 zoning found elsewhere outside of city limits but within the Kalispell Growth Policy boundaries, so the city is likely at least familiar with county SAG-5 zoning. A request for agency comments was sent to the City of Kalispell on May 04, 2015 and as of the finalizing of this staff report, no comment has been received.

Figure 4: Northern portion of City of Kalispell Growth Policy Future Land Use Map (area of subject property identified with purple star for greatest contrast)



Finding #13: The subject property is outside the city limits, outside the Growth Policy area and outside the Annexation Policy area of the City of Kalispell and Kalispell does not have a rural, 5-acre density suburban agricultural zoning classification so it is not possible for the proposed zoning map amendment to be compatible with the zoning ordinances of Kalispell because no planning or zoning documents exist that would provide guidance on compatibility and the city has not responded to a request for agency comment on the proposed zoning map amendment.

V. SUMMARY OF FINDINGS

Finding #1: The proposed zoning map amendment from AG-40 to SAG-5 is not at high risk of being determined by a court to be “spot zoning” because it does not meet all three parts of the three part test established by the Montana Supreme Court in *Little v. Board of County Commissioners Flathead County* to determine whether a zoning amendment constitutes spot zoning.

Finding #2: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request, the ‘Agriculture’ land use designation identified by the Designated Land Use Map does not appear to be compatible with the proposed zoning the map but that map only portrays zoning which was established at the time the map was created and the map is therefore not a future land use map, paved roads, public water and sewer service are not required for SAG-5 zoning, Church Drive is a county collector capable of accommodating increased traffic associated with the proposal and if the property is developed to a density that may negatively impact the gravel portion of Prairie View

Road it will likely trigger the off-site road improvement requirements of the Flathead County Subdivision Regulations.

Finding #3: The requested zoning map amendment to SAG-5 appears to comply with the Riverdale Neighborhood Plan because the character of the area around the subject property is consistent with the existing mix of densities land uses, the proposed SAG-5 zoning is less dense than what is contemplated in Map #9 Future Land Use, and given the transitioning nature of densities and land uses on adjacent properties and in the area of the proposed zoning map amendment, services and infrastructure are appropriate to support five acre lots in this area at this time.

Finding #4: The proposed map amendment would secure safety from fire and other dangers because the property is located within a reasonable distance from multiple fire stations, the property is accessed from a gravel county local road capable of accommodating emergency vehicles or that will likely be improved using the direct impact formula if the property is subdivided in the future, the property is not located in a WUI and although mapped as a fuels reduction priority area, fuels reduction does not appear to be a necessity at this time and the property is mapped as Zone X (an area determined to be outside the 0.2% annual chance floodplain).

Finding #5: The proposal would not have a negative impact on public health, public safety and general welfare because the property is served by the West Valley Fire Department and multiple fire stations are within approximately five to seven road miles of the subject property, the Flathead County Sheriff's Office serves the subject property, future development would be reviewed for conformance with the Sanitation in Subdivision Act ensuring appropriate water, wastewater and storm water, future development would be similar to uses and densities already in the area and the proposed SAG-5 zone would require location-specific review through the CUP process of the most potentially impactful land uses to ensure mitigation of negative impacts.

Finding #6: The proposed zoning map amendment would facilitate the adequate provision of transportation because Prairie View Road is a gravel two lane County local road with relatively low existing traffic volumes, future subdivision that creates a number of lots that may impact existing gravel road infrastructure will likely trigger off-site roadway improvements due to these relatively low existing traffic volumes, and the County Road Department had no comments regarding this proposal.

Finding #7: The proposal appears to not hinder the adequate provision of water, sewer, schools and parks because future development will require further review from the Montana Department of Environmental Quality and the Flathead City-County Health Department, the proposal may generate school-aged children but would likely not impact schools due to historic declines in enrollment and recent improvements in school facilities, no comments were received from the school districts and there are numerous parks, natural areas, and recreational opportunities in the vicinity.

Finding #8: The proposed zone change would ensure the reasonable provision of light and air for development on the subject property because future development would be required to meet all bulk and dimensional requirements within the proposed SAG-5 designation including; setbacks, maximum height and permitted lot coverage requirements, and 5 acre lots will not restrict the adequate provision of light and air.

Finding #9: It is anticipated that the proposed zoning map amendment would have minimal effect on the motorized and non-motorized transportation systems because Prairie View Road is a gravel county local road and can accommodate a small number of additional trips if the property is split using an exemption to subdivision review and due to low traffic counts will likely be improved if the subject property is subdivided, the Road and Bridge Department has no comment regarding the proposal, the subject property is too far from existing pedestrian infrastructure in the area to have any impact, and there may be positive impacts to non-motorized transportation systems along Prairie View Road in the future because although no bike paths currently exist, the area is planned for a bicycle route and future development may be required to allocate easement along Prairie View Road for a bicycle path.

Finding #10: The proposed zoning map amendment would not affect urban growth in the vicinity of Kalispell because the map amendment is located outside the boundaries of both the Future Land Use Map and Annexation Policy Map adopted by the City of Kalispell, and no comments were provided by the City of Kalispell regarding the proposed zoning map amendment indicating the city has no significant concerns with compatibility of the proposed zoning amendment.

Finding #11: The character of the district appears suitable for the proposed zoning map amendment because the uses permitted and conditionally permitted within the proposed SAG-5 zoning are similar to what is currently allowed and existing in the area of the proposed zoning map amendment and the Conditional Use Permit review process requires those uses that are potentially more impactful to be reviewed on a case-by-case basis to determine if the use is suited to the property at the time and in the manner it is proposed.

Finding #12: The proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land because the SAG-5 zoning is a common zone already used in this area of the Flathead Valley, many uses allowed as *permitted* uses in the SAG-5 zoning are already present in the area of the subject property and are therefore appropriate and would not harm the value of existing buildings, and those uses listed as *conditional* uses in the SAG-5 zoning would undergo a public process of review to ensure development is appropriate to the particular property at the time and in the manner it is proposed.

Finding #13: The subject property is outside the city limits, outside the Growth Policy area and outside the Annexation Policy area of the City of Kalispell and Kalispell does not have a rural, 5-acre density suburban agricultural zoning classification so it is not possible for the proposed zoning map amendment to be compatible with the zoning

ordinances of Kalispell because no planning or zoning documents exist that would provide guidance on compatibility and the city has not responded to a request for agency comment on the proposed zoning map amendment.

VI. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: BJ